

Message Text

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15
ACTION IO-13

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DEPT PASS IO/SCT

E.O. 11652: N/A
TAGS: MNUC, TECH, IAEA
SUBJECT: INTERPRETATION OF IAEA SAFEGUARDS AGREEMENTS

REF: TELCON KRATZER/LABOWITZ 8/16/76

1. DIR GEN EKLUND'S STATEMENT RE UNDERTAKINGS IN ALL IAEA
SAFEGUARDS AGREEMENTS WAS MADE AT BOARD GOVS MEETING FEBRUARY 25,
1975, AND IS RECORDED IN DOCUMENT GOV/OR.474.

2. STATEMENT WAS MADE IN CONTEXT DISCUSSION AND APPROVAL BY
BOARD OF AGREEMENT FOR APPLICATION OF SAFEGUARDS TO NUCLEAR
MATERIAL TO BE SUPPLIED TO SPAIN BY USSR. DURING THAT DISCUSSION,
GOVERNOR FROM SPAIN IS RECORDED AS REFERRING TO LETTER WHICH
SPANISH RES REP WOULD SEND TO DIR GEN WHEN AGREEMENT WAS SIGNED.
RECORDS GOES ON TO SAY, IN WORDS OF SPANISH GOVERNOR, LETTER WOULD
QUOTE CONFIRM THAT, IN REGARD TO THE PROVISIONS OF ARTICLE 2
OF THE AGREEMENT, THE UNDERTAKING NOT TO USE THE NUCLEAR MATERIALS
QUOTE SUPPLIED BY THE SOVIET UNION TO FURTHER ANY MILITARY
PURPOSES INCLUDED THE OBLIGATION, IN PARTICULAR, NOT TO
DIVERT THEM TO NUCLEAR EXPLOSIVE DEVICES. UNQUOTE.

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3. AFTER BOARD APPROVED AGREEMENT, DIR GEN MADE STATEMENT, REFERRING TO LETTER WHICH SPANISH RES REP WOULD BE SENDING AND, ACCORDING TO RECORD SAID THAT IN HIS REPLY, QUOTE HE WOULD REFER TO THE STANDARD UNDERTAKING ACCEPTED BY GOVERNMENTS IN CONCLUDING SUCH SAFEGUARDS AGREEMENTS WITH THE AGENCY TO THE EFFECT THAT THEY WOULD NOT USE SAFEGUARDED ITEMS 'IN SUCH A WAY AS TO FURTHER ANY MILITARY PURPOSE.' HE WOULD PLACE ON RECORD THAT AN INVARIABLE AND CARDINAL OBLIGATION INVOLVED IN THAT UNDERTAKING WAS THAT THE NUCLEAR MATERIALS SHOULD ALSO NOT BE USED FOR THE DEVELOPMENT, MANUFACTURE OR TESTING OF NUCLEAR EXPLOSIVE DEVICES OF ANY KIND.

QUOTE AS THE BOARD KNEW, THE AGENCY'S SAFEGUARDS HAD FROM THE OUTSET BEEN INTENDED TO ENSURE, AS FAR AS IT WAS IN THE POWER OF THE AGENCY TO DO SO, THAT SAFEGUARDED NUCLEAR MATERIALS WERE NOT USED FOR NUCLEAR EXPLOSIONS OR ANY OTHER MILITARY PURPOSE.

QUOTE RECENTLY, NUCLEAR MATERIALS HAD, IN MANY CASES, BEEN SUPPLIED ONLY WHEN THAT CONDITION WAS STATED EXPLICITLY. FOR THE FUTURE, IT WAS FORESEEN THAT THE PRACTICE OF ENTERING INTO AN EXCHANGE OF LETTERS FOR THAT PURPOSE WOULD BE REPLACED BY INCLUDING THE REQUISITE PROVISIONS IN THE AGREEMENT ITSELF. UNQUOTE.

4. GOVERNOR FROM SWITZERLAND, CLAUDE ZANGGER, SPOKE NEXT. RECORD SHOWS THAT HE QUOTE WONDERED WHETHER THE DIRECTOR GENERAL'S STATEMENT WOULD NOT BE SEEN AS DEFINING A NEW GENERAL POLICY OF THE AGENCY. SUCH A POLICY MIGHT MEAN FORBIDDING A MEMBER STATE TO USE NUCLEAR EXPLOSIONS FOR PEACEFUL PURPOSES. THAT WOULD BE CONTRARY TO THE STATUTE OF THE AGENCY, ACCORDING TO WHICH IT WAS TO PROMOTE THE USES OF ATOMIC ENERGY FOR PEACEFUL PURPOSES; ONE MIGHT LEGITIMATELY FEAR THAT THE NEW POLICY WOULD SCARCELY ALLOW THAT GOAL TO BE ATTAINED. UNQUOTE.

5. ZANGGER WENT ON TO POINT OUT THAT SWISS COMPANY WAS INTERESTED IN DOING R&D ON "CONFINED MICRO-EXPLOSIONS" TO PRODUCE ENERGY FOR PEACEFUL PURPOSES, USING FISSIONABLE MATERIALS. ANOTHER SWISS COMPANY INTENDED TO STUDY THE POSSIBILITIES OF USING NUCLEAR EXPLOSIONS TO ESTABLISH GEOLOGICAL STORAGE SITES FOR FOSSIL FUELS. LIMITED OFFICIAL USE

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ACCORDING TO RECORD, QUOTE HE FELT, ACCORDINGLY, THAT THE IMPLICATIONS OF THE DIRECTOR GENERAL'S STATEMENT SHOULD BE STUDIED THOROUGHLY, AFTER ADEQUATE PREPARATION. CONSIDERING HOW NUCLEAR SOME OF THE LEGAL ASPECTS OF THE IMPORTANT ISSUES RAISED IN THAT STATEMENT WERE, HE FELT OBLIGED TO MAKE RESERVATIONS, UNQUOTE.

6. AMBASSADOR TAPE IS SHOWN AS SUPPORTING DIR GEN'S STATEMENT AND DID NOT CONSIDER PROBLEMS MENTIONED BY ZANGGER AS URGENT.

7. RECORD THEN SHOWS GOLDSCHMIDT (FRANCE) QUOTE POINTED OUT THAT WHILE ALL STATES MEMBERS OF THE AGENCY HAD ACCEPTED THE STATUTE, NOT ALL HAD ACCEDED TO NPT; THE CLAUSES OF NPT MUST QUOTE NOT PREVAIL OVER THE PROVISIONS OF THE STATUTE. THE AGENCY HAD BEEN CONCEIVED BY ITS FOUNDERS AS AN ORGANIZATION PROVIDING SERVICES, AND IT SHOULD IN FUTURE BE IN A POSITION TO PROVIDE ASSISTANCE WITH NUCLEAR EXPLOSIONS FOR PEACEFUL PURPOSES TO ANY MEMBER THAT REQUESTED IT. UNQUOTE.

8. ZANGGER THEN TOOK ISSUE WITH TAPE'S VIEW, POINTING OUT SWISS COMPANY HAD MADE REQUEST TO HIS GOVERNMENT FOR FISSIONABLE MATERIAL FOR USE IN MICRO-EXPLOSION R&D.

9. JACKSON (UK) SUPPORTED DIR GEN'S STATEMENT AND UNGERER (FRG) THOUGHT PROBLEM SHOULD BE STUDIED BY NPT REVIEW CONF.

10. SUBSEQUENTLY, AT JUNE 12, 1975, MEETING OF BOARD (SEE GOV/OR.481), IN CONTEXT OF CONSIDERATION OF SAFEGUARDS AGREEMENT WITH SWITZERLAND, DIR GEN CLEARED UP QUESTION OF MICRO-EXPLOSIONS "NON-DESTRUCTIVELY CONTAINED WITHIN A SUITABLE VESSEL;" THEY DID NOT RPT NOT CONSTITUTE NUCLEAR EXPLOSIVE DEVICES WITHIN MEANING OF THAT TERM AS USED IN DRAFT AGREEMENT WITH SWITZERLAND. AMB. TAPE PUT IN RECORD, STATEMENT RE MICRO-EXPLOSIONS (CONSISTENT WITH DIR GEN'S STATEMENT) MADE BY U.S. AT NPT REVIEW CONF

HE IS ALSO SHOWN AS NOTING THAT UNDERTAKINGS IN DRAFT AGREEMENT WITH SWITZERLAND WERE FULLY CONSISTENT WITH DIR GEN'S STATEMENT IN FEBRUARY BOARD.

11. UNDERTAKING IN SWISS AGREEMENT (GOV/1751), WHICH WAS FIRST TO REFLECT DIR GEN'S STATEMENT IN FEBRUARY BOARD, READS QUOTE SWITZERLAND UNDERTAKES THAT SUPPLIED NUCLEAR MATERIAL AND LIMITED OFFICIAL USE

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QUOTE SUCH OTHER NUCLEAR MATERIAL AS IS REQUIRED TO BE LISTED IN THE INVENTORY, AS ANY SPECIAL FISSIONABLE MATERIAL PRODUCED IN OR BY THE USE OF SAID NUCLEAR MATERIAL, INCLUDING SUBSEQUENT GENERATIONS OF SUCH SPECIAL FISSIONABLE MATERIAL

SHALL NOT BE USED FOR THE MANUFACTURE OF NUCLEAR WEAPONS OR TO FURTHER ANY OTHER MILITARY PURPOSE OR FOR THE MANUFACTURE OF ANY OTHER NUCLEAR EXPLOSIVE DEVICE. UNQUOTE.

12. THAT FORMULATION HAS BEEN FOLLOWED IN ALL SUBSEQUENT AGREEMENTS BASED UPON INFCIRC/66 REV. 2, WITH VARIATIONS ONLY IN STYLE. FOR EXAMPLE, SOME STATE THAT "NONE OF THE ITEMS LISTED," ETC., "SHALL BE USED FOR THE MANUFACTURE," ETC. STONE

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